

Service Date: December 20, 2021



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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December 20, 2021

**NOTICE REOPENING THE RECORD; NOTICE OF INTENT TO
AMEND FINAL ORDER**

(Responses due January 14, 2022, by 5 p.m.)

and

NOTICE OF BENCH REQUEST

(Response due December 30, 2021, by 5 p.m.)

Re: *Washington Utilities and Transportation Commission v. Puget Sound Pilots*, Docket
TP-190976

TO ALL PARTIES:

On November 11, 2020, the Washington Utilities and Transportation Commission (Commission) entered its Final Order in Docket TP-190976 (Final Order), which resolved all contested issues in Puget Sound Pilots' (PSP or Company) first general rate case, including, *inter alia*, the approval of a rate design that incorporates both service time and Gross Tonnage charges for vessel movements.

PETITION TO AMEND FINAL ORDER

On August 26, 2021, TOTE Maritime Alaska, LLC, (TOTE) filed a Petition for Amendment, Recission, or Correction of the Final Order (Petition) pursuant to Washington Administrative Code (WAC) 480-07-875. In its Petition, TOTE alleges that PSP has "taken advantage of unjust circumstances" to increase pilotage fees for two TOTE vessels. Specifically, TOTE alleges that PSP's invoicing for the two vessels is now based on international gross tonnage (IGT) as opposed to regulatory, or domestic, gross register tonnage (GRT), which resulted in substantially higher service rates for TOTE's two vessels than PSP charged in previous years. TOTE further alleges that PSP represented in its testimony and workpapers that it would continue to assess rates based on GRT calculations.

TOTE requests the Commission require PSP to amend Item 300 of its tariff to base inter-harbor vessel movement Gross Tonnage charges for vessels that operate exclusively in coastwise trades on regulatory GRT, and only assess charges based on IGT for vessels that operate wholly or partially in international trades.

On August 30, 2021, the Commission issued a Notice of Opportunity to Respond to Petition, and on October 15, 2021, the Commission received written responses to the Petition from PSP, Pacific Merchant Shipping Association (PMSA), and Commission staff (Staff). On November 12, 2021, TOTE filed a reply.

The Commission finds that the Petition and the responses thereto raise new issues related to the methodology PSP uses to calculate Gross Tonnage that were neither presented to, nor considered and resolved by, the Commission in its Final Order. Accordingly, the Commission determines it is appropriate to reopen the record in this proceeding to receive into evidence TOTE's Petition and the parties' responses and reply thereto, as well as supplemental information filed in support of PSP's compliance filing in this Docket.

NOTICE REOPENING THE RECORD

Pursuant to WAC 480-07-830, the Commission on its own motion hereby gives notice that it reopens the record in this proceeding for the limited purpose of admitting the Petition, PSP's response to the Petition, PMSA's response to the Petition, Staff's response to the Petition, TOTE's reply, and the forthcoming response to Bench Request No. 7 (contained in this Notice) into the record in this proceeding.

NOTICE OF INTENT TO AMEND FINAL ORDER

The Commission finds that the absence of the information identified in TOTE's Petition and the responses and reply thereto from the evidentiary record substantially interfered with the Commission's ability to evaluate PSP's proposed rate design. The Commission thus intends to amend the Final Order to address this deficiency by: (1) requiring PSP to identify and, from the date of the amended Final Order forward, defer until the rate effective date of PSP's next general rate case the incremental difference between the revenues collected from TOTE under PSP's current tariff (which assesses tonnage charges on IGT) and the amounts PSP would have collected from TOTE had tonnage charges been assessed based on GRT; and (2) requiring PSP in its next general rate case to present for Commission consideration and determination whether Gross Tonnage should be calculated using GRT or IGT, including for vessels operating exclusively in coastwise trade. Parties may file responses to the Commission's proposed amendment by 5 p.m. on January 14, 2022. Responses must be limited to 15 pages.

THE COMMISSION GIVES NOTICE That parties must file any responses to the Commission's proposed amendment to the Final Order by 5 p.m., Friday, January 14, 2022. Responses must be limited to 15 pages.

NOTICE OF BENCH REQUEST

TO PSP:

BENCH REQUEST No. 7:

1. Please provide electronic copies of all workpapers provided to Staff in support of PSP's January 12, 2021, compliance filing.

Please respond to this Bench Request no later than 5 p.m. on Thursday, December 30, 2021, by electronic filing with the Commission's Records Center. Please provide a courtesy copy by email to Administrative Law Judges Rayne Pearson and Michael Howard at rayne.pearson@utc.wa.gov and michael.howard@utc.wa.gov. If you have any questions concerning this Bench Request, please contact Judge Pearson and Judge Howard via email.

/s/ Rayne Pearson
RAYNE PEARSON
Administrative Law Judge